THE HON'BLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No.13744 of 1997

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Dated: October 3, 2005

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Between:

Kakuturu Grampanchayat,

rep. by its Sarpanch B. Seenaiah,

S/o. Subbaramaiah, aged about

42 years, R/o.Kakuturu Village,

Venkatachalam Mandal,

Nellore District.

… Petitioner

And

The District Collector,

Nellore, Nellore District, and

two others.

… Respondents

Order:

This writ petition is filed seeking Mandamus directing Respondent No.1 to recover the layout fee of Rs.79,137/- due to the Gram Panchayat, Kakuturu from Respondent No.3 under the provisions of A.P. Revenue Recovery Act by declaring that Respondent No.2 is entitled to alienate the house plots in Sy.Nos.457 to 461, 431 to 435 and 84 of Kakuturu village, without remitting the layout fee to the petitioner Grampanchayat.

2. Petitioner herein is the Grampanchayat, Kakuturu Village, represented by its Sarpanch. It is the case of the petitioner that Respondent No.3, the Managing Partner of Venkataramana Real Estate, Pogathota, Nellore, laid unauthorized layouts in Sy.Nos.457 to 461, 431 to 435 and 84 parts of Kakuturu village to an extent of Ac.97.70 cents and is alienating house plots to third parties without remitting the layout fee to the petitioner Grampanchayat. Petitioner states that any owner of any land shall, before he utilizes, sells, leases or otherwise disposes of such land or portion thereof, has to make a layout, and form streets and other amenities etc., and submit an application for the approval of the Grampanchayat along with necessary layout fee, which has not been done by Respondent No.3 before proceeding to alienate the said house plots. Petitioner further states that on a letter addressed by the Regional Vigilance & Enforcement Officer, Nellore, after causing detailed enquiries into the unauthorized layouts, and the District Panchayat Officer, Nellore, instructing the authorities concerned of the Grampanchayat to issue notices to the owners concerned for recovery of layout fee due to the Grampanchayat, notice dated 17-04-1997 had been issued to Respondent No.3 requiring him to remit the layout fee of Rs.79,137/- due to the Grampanchayat. Petitioner alleges that in spite of his making repeated requests, Respondent No.3 failed to remit the layout fee; the same was reported to the authorities concerned, namely, Respondent No.1, but so far no action whatsoever had been taken. Hence, the petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India.

3. This Court by its order dated 03-07-1997 granted interim directions to Respondent No.2 not to register the sale deeds of the aforementioned house plots.

4. Respondent No.2 filed counter affidavit stating that the dispute between the petitioner and Respondent No.3 is only for payment of layout fee and in that regard, necessary steps were taken by the petitioner, by referring the case to the revenue authorities, under the Revenue Recovery Act and that he is no way concerned with the dispute between the petitioner and Respondent No.3 and he is only discharging his duty. Respondent No.1 had not filed any counter affidavit. Respondent No.3 filed his counter affidavit along with a petition to vacate the order passed by this Court dated 03-07-1997. This Court by its order dated 04-03-1998 made its order dated

03-07-1997 absolute. Respondent No.3, in his counter, states that the allegation of the petitioner that he had prepared unauthorized layouts to an extent of Ac.97.70, is false, as is the allegation that he is alienating the land in question to third parties, without remitting the layout fee. It is his case that the petitioner granted permission of the layout to his vendors who are the original owners and he being only a purchaser, is not liable to pay any layout fee. Further, it is his case that the petitioner has already collected the layout fee from his vendor and as such, layout fee cannot be collected twice, i.e. when the land is purchased by subsequent purchasers. It is stated that in the year 1972, lay outs of Chella Ramanaiah and 11 others were obtained from the Grampanchayat and that he purchased the said land in the year 1986 and he had furnished all the particulars of the notice of Grampanchayat mentioning the extent of land purchased by him.

5. Heard the learned counsel for the petitioner, the learned counsel appearing for Respondent No.3 and the learned Government Pleader for Panchayat Raj.

6. The affidavit filed by the petitioner clearly discloses that the notice dated 17-04-1997 was issued only at the instance of the Vigilance authorities, which found that certain house plots are being sold without remitting the layout fee. The Vigilance and Enforcement Officer, Nellore addressed a letter to the District Panchayat Officer, Nellore furnishing the particulars of owners, location of the layout extents, survey numbers and the layout fee due to the Gram Panchayat, in pursuance of which, the District Panchayat Officer, Nellore instructed the authorities concerned to issue notices to the owners for recovery of layout fee due to the Gram Panchayat, that led to the issuance of notice dated 17-04-1997 to Respondent No.3. It is very surprising to notice as to how the Gram Panchayat issued permission to the layouts without collecting layout fees. Even if such a notice were issued, nothing would prevent the petitioner in issuing a notice to the persons in whose favour the layout had been sanctioned and to take necessary action against the concerned for cancellation of the lay out. There is no material placed before this Court by the learned counsel for the petitioner as to the steps taken by the petitioner to recover the layout fees from the persons on whose name the layout had been sanctioned and approved and the steps taken in accordance with law for cancellation of the lay out for non payment of lay out fee. The Respondent No.3, in his counter affidavit, stated that he is not the person from whom the layout fee has to be collected since he is not the original owner, but only a purchaser. The petitioner, anticipating action from the Vigilance authorities against him has sought to shift the blame on the first respondent/District Collector and has chosen to file the present writ petition. Hence, the relief sought for in the present writ petition is misconceived and does not warrant any interference from this Court.

7. Accordingly, the writ petition is dismissed. No costs.

N.V. RAMANA, J

October 3, 2005

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THE HON'BLE Mr. JUSTICE N.V. RAMANA

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